



Scott D. Everett, Director
Legislative Affairs
severett@fraserlawfirm.com
517.204.3328 (C)

June 4, 2013

To: House Committee on Natural Resources

From: Scott Everett, MLICA Legislative Consultant

RE: SB 163 Opposition

The Michigan Land Improvement Contractors Association (MLICA) consists of members that are in the business of installing agricultural subsurface drainage systems. The drainage industry has dramatically changed in the last decade with the application of GPS technology and related software. Today, drainage systems are designed and built with nearly pinpoint accuracy to serve the needs of both landowners and the public through effective implementation of soil and water conservation techniques.

There are two main reasons MLICA members are hired by landowners to improve drainage systems:

1. Prevention of soil erosion
2. Increased agricultural production capacity of the land

SB 163 will have a negative effect on both objectives.

For all practical purposes, SB 163 is taking language from the Federal Clean Water Act and implementing it into state law so it can be applied to all drains, surface waters and wetlands that are under the jurisdiction of the State of Michigan.

This will result in additional regulation, permits, fees and mitigation applied to all privately owned drains and wetlands in Michigan. A main focus of SB 163 is aimed at regulating the construction, maintenance and improvement of private drains and further limiting the uses allowed within a wetland by agriculture, silviculture, lumbering and ranching.

Currently, drainage contractors either work with a county drain commissioner if an established county drain is involved, or the landowner if the drain is under private ownership to decide the details as to how the subsurface drainage system will be executed. If a regulated wetland is involved, the U.S. Natural Resource Conservation Service (NRCS) provides a determination of where the subsurface drainage boundaries must be. SB 163 will dramatically change the privately owned drain side of the equation. Under SB 163 the MDEQ will be heavily engaged through required permits, fees and mitigation.

Specifically, MLICA is opposed to the following provisions within SB 163:

- The elimination of exemptions from a DEQ permit for private drain construction and improvement.
- The limitations and lack of clarity for maintenance of an agricultural drain that can still be performed without a DEQ permit.
- The exemption for agricultural production only applying to operations that are "established and ongoing."
- Minor drainage within a wetland being further defined as no drainage.
- The elimination of currently allowed operation or improvement within a wetland for existing agricultural drains for the production and harvest of agricultural products.
- The change from road construction/maintenance/improvement currently allowed within the "right-of-way" limited to the **"current location or footprint."** Road right-of-way drains are privately owned and are routinely maintained and improved by the landowner.

For the above reasons, the Michigan Land Improvement Contractors Association is opposed to SB 163. Thank you for considering our comments.